

Jonathan Schwalb, Esq.
Friedman Vartolo LLP
1325 Franklin Avenue, Suite 160
Garden City, New York 11530
Attorneys for Fay Servicing, LLC as servicer for
Wilmington Trust, National Association, not in its
individual capacity, but solely as trustee of MFRA Trust
2015-1
P: (212) 471-5100
Bankruptcy@FriedmanVartolo.com

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

	-----X
	:
	: CASE NO.: 21-19470-CMG
IN RE:	:
	: CHAPTER: 13
Genaro Herrera	:
	: HON. JUDGE.:
Debtors	: Christine M. Gravelle
	:
	: HEARING DATE:
	: August 3, 2022 at 10:00 A.M.
	:
	:
	-----X

NOTICE OF OBJECTION TO CONFIRMATION OF MODIFIED PLAN

PLEASE TAKE NOTICE that Fay Servicing, LLC as servicer for Wilmington Trust, National Association, not in its individual capacity, but solely as trustee of MFRA Trust 2015-1 (“Secured Creditor”), the holder of a mortgage on real property of the debtor(s), located at 119-121 South Hampden Court, Pleasantville, NJ 08232, by and through its undersigned attorneys, hereby objects to the confirmation of the Modified Chapter 13 Plan on grounds including:

1. Debtor(s) modified plan fails to provide for the claim of Secured Creditor. The objecting creditor is due arrears of approximately \$101,084.30 as set forth in the Proof of Claim filed on February 16, 2022, Claim No. 2.

2. Debtor(s) modified plan fails to provide for the correct regular monthly mortgage payments owed to the Secured Creditor. The objecting creditor is due payments in the amount of \$1,922.97 as set forth in the filed Proof of Claim.
3. Debtor's modified plan as proposed appears to contemplate that there will be no cure for the prepetition arrears of Secured Creditor unless or until a loan modification is achieved.
 - a. The requirements of 11 U.S.C. 1322(d)(2) do not provide for payment over a period longer than 5 years. Moreover, the debtor(s) are obligated to cure the arrears due to the objecting creditor within a reasonable time pursuant to 11 U.S.C. 1322(b)(5). Accordingly, in the event that the ongoing loss mitigation efforts are not successful, the plan fails to satisfy the confirmation requirements of 11 U.S.C. 1325(a)(1). As Debtor's plan is dependent on the approval of a loan modification, confirmation must be denied. Debtor seeks to modify the rights of Secured Creditor, which is the holder of a claim secured only by a security interest in real property that is the principal residence of the Debtor.
 - b. Additionally, Secured Creditor is objecting to the proposed plan on the basis of a prior default on a repayment plan. Debtor is no longer eligible for any further retention options.
4. Debtor(s) proposed plan fails to comply with the requirements of the Bankruptcy Code and is not proposed in good faith.
5. Debtor(s) proposed plan is not feasible.
6. Debtor(s) proposed plan fails to comply with other applicable provisions of Title 11.

In the event any portion of the claim is deemed to be an unsecured claim as defined by the Code, objection is hereby made pursuant to 11 U.S.C. 1325(a)(4) and 1325(b), et seq. unless the plan provides for full payment of the claim.

Dated: New York, NY
July 25, 2022

By: /s/ Jonathan Schwalb
Jonathan Schwalb, Esq.
FRIEDMAN VARTOLO LLP
Attorneys for Fay Servicing, LLC as servicer for
Wilmington Trust, National Association, not in its
individual capacity, but solely as trustee of
MFRA Trust 2015-1
1325 Franklin Avenue, Suite 160
Garden City, New York 11530
T: (212) 471-5100
F: (212) 471-5150

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

Caption in Compliance with D.N.J. LBR 9004-1(b)

Jonathan Schwalb, Esq.
Friedman Vartolo LLP
1325 Franklin Avenue, Suite 160
Garden City, NY 11530
Attorneys for Fay Servicing, LLC as servicer for
Wilmington Trust, National Association, not in its
individual capacity, but solely as trustee of MFRA Trust
2015-1
P: (212) 471-5100
Bankruptcy@FriedmanVartolo.com

In Re:

Genaro Herrera

Debtor.

Case No.: 21-19470-CMG

Chapter: 13

Adv. No.: _____

Hearing Date: 8/3/22 at 10:00am

Judge: Christine M. Gravelle

CERTIFICATION OF SERVICE

1. I, Jennifer Tiburcio :

☐ represent _____ in this matter.

☐ am the secretary/paralegal for Jonathan Schwalb, Esquire, who represents
Fay Servicing, LLC in this matter.

☐ am the _____ in this case and am representing myself.

2. On July 25, 2022, I sent a copy of the following pleadings and/or documents
to the parties listed in the chart below.

NOTICE OF OBJECTION TO CONFIRMATION OF MODIFIED PLAN

3. I certify under penalty of perjury that the above documents were sent using the mode of service
indicated.

Date: July 25, 2022

/s/ Jennifer Tiburcio
Signature

Name and Address of Party Served	Relationship of Party to the Case	Mode of Service
Genaro Herrera 365 Ridgeley Street Perth Amboy, NJ 08861	Debtor	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.)
Donald C. Goins, Esquire Goins & Goins, L.L.C. 323 Washington Avenue Elizabeth, NJ 07202	Debtor's Attorney	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other <u>NEF</u> (As authorized by the Court or by rule. Cite the rule if applicable.)
Albert Russo Standing Chapter 13 Trustee CN 4853 Trenton, NJ 08650-4853	Trustee	<input type="checkbox"/> Hand-delivered <input checked="" type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other <u>NEF</u> (As authorized by the Court or by rule. Cite the rule if applicable.)
U.S. Trustee US Dept of Justice Office of the US Trustee One Newark Center Ste 2100 Newark, NJ 07102	United States Trustee	<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input checked="" type="checkbox"/> Other <u>NEF</u> (As authorized by the Court or by rule. Cite the rule if applicable.)
		<input type="checkbox"/> Hand-delivered <input type="checkbox"/> Regular mail <input type="checkbox"/> Certified mail/RR <input type="checkbox"/> Other _____ (As authorized by the Court or by rule. Cite the rule if applicable.)